

23 September 2011

Response to the European Commission Green Paper on modernising the Professional Qualifications Directive

1. The Alliance of UK Health Regulators on Europe (AURE) brings together 10 of the health and social care regulators in the United Kingdom to work collaboratively on European issues affecting patient and client safety. Our purpose is to protect and promote patient safety through effective regulation and ensuring proper standards in the practice of health and social care.
2. In response to the Green Paper on modernising the professional qualifications Directive, AURE has produced the following statement. This should be considered alongside our submission to the European Commission consultation in March 2011 and complements individual responses from AURE members.
3. Our response focuses on the key questions of relevance to AURE and is informed by the fact that we have considerable experience with high levels of mobility, both from Europe and internationally. According to the Regulated Professions Database¹, the UK receives almost three times as many EEA professionals than it sends out.
4. We undoubtedly benefit from such high levels of mobility but, as a net importer of professionals, it raises a number of challenges to public protection. The review of the recognition of professional qualifications Directive (2005/36/EC) presents an opportunity to address some of these concerns and we welcome the European Commission's consultation on its Green paper.

Professional cards

5. As outlined in our previous response, AURE is yet to be convinced of the value-added of a professional card to the recognition process. The high-levels of EEA qualified health and social care professionals coming to the UK

¹http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=stats.crossBorder&services=false

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demonstrate that the current system already works well for both automatic recognition and general systems.

6. We welcome greater involvement from the member state of departure in the recognition procedure. However, we do not support the suggestion that the receiving member state would be required to base a recognition decision on a professional card alone. We believe that it is vital, to both the integrity of our registration processes and the protection of the public, that the decision to grant recognition lies with the receiving member state and that host competent authorities are permitted to carry out their own checks.

7. Many AURE members have experienced fraudulent applications or have received certificates issued by other competent authorities, incorrectly confirming that a professional is entitled to recognition. In this context, we do not believe that a card issued by the departing member state would provide the necessary safeguards and security to prevent this in the future.

8. We note the suggestion in the Green Paper to reduce the time required to issue a recognition decision but are concerned that it would unreasonably constrain authorities to make a decision and place a disproportionate burden on net-importing countries, such as the UK. Instead, we would suggest introducing targets for the home competent authority to respond to requests since, in our experience, this is where most delays originate from.

9. We have given significant consideration to alternative ways to facilitate mobility. For example, we would support improving the Internal Market Information System (IMI) and exchanging or uploading Certificates of Current Professional Status (CCPS) and all other required documentation through the system. This should be accompanied by an extension of IMI to competent authorities for all healthcare professions, mandatory registration with IMI and a requirement on the competent authority/authorities to update the information they exchanged if there is any change in the individual's circumstance or fitness to practise.

10. We also believe that competent authorities and regulators across the EEA should be encouraged to make web-based searchable lists of registration and disciplinary information freely available to the public, as they are by all health and social care regulators in the UK. This would allow competent authorities to directly access information about healthcare



professionals in another member state and would be a positive way of improving transparency.

Partial access

11. We do not support the Commission's proposal to include partial access in a revised Directive. AURE members believe there are significant public interest implications if partially-qualified professionals were allowed access to patients. We believe these are sufficient grounds for health and social care professionals to be granted an exception to ECJ jurisprudence in the area.

12. We would also like to highlight that inserting the principle would undermine the automatic recognition system for the sectoral professions. Competent authorities would be required to make an assessment for recognition on a case-by-case basis, even if a professional did not meet the minimum training requirements. We consider that general systems, and the application of compensation measures, are already an effective and safe way to deal with shortfalls in training.

Contact Points

13. We agree that information on the recognition process should be freely and openly available to professionals wishing to move. However, we do not support the suggestion that a "central online access point" in each member state should act as an intermediary and be responsible for processing requests for recognition. AURE members believes that the receiving competent authority must keep ownership of the recognition process

14. We would instead suggest improving the visibility and accessibility of *National Contact Points* to professionals wishing to move. These should clearly sign-post applicants to the relevant competent authority and include links to their online resources.

15. The majority of AURE members already make online applications for registration available to professions and we support this suggestion in the Green Paper. However, we do not believe competent authorities should be required to fully complete the recognition process online, particularly for health and social care professionals. Where necessary, competent authorities must be able to request additional information and to satisfy themselves of a

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migrant's identity and fitness to practise, which might not always be possible through remote means.

Temporary and occasional

16. We would like to reiterate our concerns with the temporary and occasional provisions in the Directive. It remains our view that the regulatory system should protect patients, regardless of whether a professional is providing their services on a permanent or temporary basis.

17. We do not support the removal of the two years- requirement of professional experience for individuals from non-regulating member states. It is vital that the host member state should continue to be entitled to require a prior declaration in advance of any provision of health or social services for the sake of public protection and safety.

Student and graduate mobility

18. We understand that there are circumstances where an individual, who has not completed their training in one country, may seek to complete this in another member state. We fully support the principle of equal access for EEA nationals to periods of remunerated training where the professional qualification warrants a period of supervised practical experience.

19. However, AURE does not see the added value of enshrining the principle of access to remunerated supervised experience in a revised proposal. Directive 2005/36/EC should deal exclusively with the recognition of full professional qualifications rather than periods of education and training.

20. Furthermore, it is essential that only those at a comparable level should gain access to education and training in another member state. We believe that training providers and regulators will need to be in a position to establish that the education received outside of the UK has been delivered to the standard required at home.

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Alert mechanism

21. AURE has consistently called on the European Commission to consider a legal duty for regulators to exchange fitness to practise information and we welcome the Green Paper's focus on this area.

22. We agree with the Commission that option 2 would better protect patients. We also consider that the alert mechanism should be extended to make it a legal duty on competent authorities to immediately inform other member states where any restriction has been placed on a health or social care professional's ability to practise. It would also be helpful for the Commission to consider whether the alert mechanism could be used to support the exchange of intelligence about individuals that try to register with fake diplomas or false identities.

23. We believe that option 1 would not be sufficiently robust. Our experience is that competent authorities do not always hold the necessary information to predict which other member states a professional may seek work in.

24. For the IMI alert mechanism to be effective, all organisations responsible for the recognition, registration and fitness to practise would need to be registered on IMI. We also encourage the Commission to ensure consistency between the review of Directive 2005/36/EC and the revision of Directive 89/46 on Data Protection to allow for consistent implementation and enforcement of an alert mechanism across the EEA.

Language

25. In the UK, the implementation of the Directive prevents AURE members from requiring the majority² of health and social care professionals qualified within the EEA to provide assurance of their language knowledge before registration.

26. AURE welcomes the acknowledgement in the Green Paper of the importance of language skills for healthcare professionals. We support option

² Currently only speech and language therapists are required to provide evidence of English knowledge.

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2 outlined in the Green Paper and believe that an amendment to the Directive would provide greater clarity and allow competent authorities to require evidence of language proficiency before registration.

27. However, to ensure public protection, we believe that all health and social care professionals should be required to demonstrate their knowledge of the host country's language, regardless of whether they will be having direct contact with patients. These professionals are required to be a competent communicator with a range of people and colleagues, not only patients.

28. We believe that all health and social care competent authorities should be able to assess language skills as part of the registration process.

29. AURE acknowledges the important role played by employers ensuring that professionals are fit for a particular position but would like to highlight that a significant amount of the professionals we regulate carry out work in a self-employed capacity. We believe that a regulator must ensure that all professionals are fit for practice at the point of registration, including their ability to effectively communicate.

30. In addition, we believe that language checks should not be limited to healthcare professionals who fall under the automatic route to recognition but should also include applicants applying under the general system. If a comparison of qualifications during the recognition stage identifies no substantial differences then the competent authority should still be able to assess language competency of such applicants before granting registration.

Continuous competence of professionals

31. We support the suggestion in the Green Paper that professionals need to be established to benefit from automatic recognition. However, we would like to highlight that establishment alone does not necessarily provide evidence about the continuous competence of professionals, particularly where there is no mandatory competence assurance mechanism in member states.

32. Therefore we would urge the Commission to link automatic recognition with a requirement to demonstrate up to date knowledge and skills. This could



be demonstrated either through a certificate issued by the competent authority of establishment, if a mandatory competence assurance scheme exists, or through proof from an employer that a professional has been engaged in relevant and satisfactory employment.

33. We believe that if an applicant cannot prove the currency of their practice and that they have kept their skills and knowledge up to date, they should not benefit from automatic recognition. Instead, professionals should be required to undergo a return to practice programme and/or undertake compensation measures, where necessary.

Modernising automatic recognition

34. AURE members responsible for the sectoral professions welcome the focus in the Green Paper on reviewing the minimum training requirements.

35. However, we would like assurances from the Commission that the modernisation process will be transparent, objective and inclusive, formally involving the competent authorities. In this context, we would also like further information on the institutional frameworks envisaged to drive the modernisation programme forward and the mechanisms in which stakeholders will be involved in the process.

36. We also believe that the three-staged approach as outlined in the Green Paper must be preceded by a thorough review of the qualifications included in Annex V in order to ensure that there is genuine comparability and equivalency. This process would contribute to an effective revision of the minimum training requirements and help develop any new criteria for automatic recognition.

37. AURE would also like to stress that any revision of the Directive should not prevent or restrict the recognition of qualifications currently granted in the UK. The UK has already established intensive graduate entry-programmes for several healthcare professionals, which meet high quality standards and assurance processes. We do not believe the Directive should constrain member states in delivering healthcare.

Opening up the General systems

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38. AURE members are not convinced that common platforms can be developed and effectively implemented in the absence of regulation for some health and social care professionals, and a current discrepancy in standards of education, training and practice. We remain concerned that the Commission's proposal to develop common platforms is unclear and does not intend to formally involve competent authorities in the process.

39. We also have reservations about deleting Article 11 of Directive 2005/36/EC and replacing the current classification levels with the European Qualifications Framework. There needs to be a way of relating the general education and intellectual level of the professional work to a commonly accepted framework. We believe replacing the current system would create too much uncertainty, both for the professional and for the competent authority.

40. We also believe this approach might have implications on the flexibility of competent authorities to devise compensation measures appropriate for a particular professional.

41. We fully support the proposal for competent authorities to justify their decisions to migrating professionals with regard to the application of compensation measures, but do not support developing a mandatory Europe-wide code of conduct.

Third country qualifications

42. AURE members consider that the current arrangements for recognising third country qualifications from EEA nationals appropriately balance professional mobility and public protection. We believe the requirements do not need to be amended or extended further.

43. We would also like to highlight that lowering the three years professional experience requirement could lead to situations where applicants have their qualification recognised in a lenient member state and then immediately present themselves to another member state to obtain registration while bypassing more stringent recognition processes.



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